

- II. Claims 17-36 and 87-90, drawn to a single layer tubing, classified in class 428, subclass 35.7.
- III. Claims 37-86, drawn to multilayer tubing, classified in class 428, subclass 411.1+.
- IV. Claim 91, drawn to a method of making tubing, classified in class 264, subclass (unknown).

The Examiner has failed to make a *prima facie* case for requiring a Restriction. Pursuant to M.P.E.P. § 803, a restriction requirement is proper only if: (1) the inventions are independent or distinct as claimed, and (2) there would be a serious burden on the Examiner if the restriction is not required. Applicants acknowledge the claims of each group are patentably distinct from one another, but contend that claims of Groups I-IV do not enjoy a separate status in the art. Further, Applicants contend that it would not be unduly burdensome for the Examiner if the restriction requirement were not sustained.

The polymer blends, monolayer tubing, multiple layer tubing and method of manufacturing tubing do not enjoy a separate status in the art. United States Patent No. 6,372,848 has claims 1-53 directed to a polymer blend, claims 54 et seq. directed to a tubing made from a polymer blend, claim 79 is directed to a monolayer tubing and claim 80 is directed to a multiple layer tubing. Accordingly, Groups I-III do not enjoy a separate status in the art. Further, U.S. Patent No. 6,187,400 has claims 34-56 directed to a monolayer and a multiple layer medical tubing and claims 57-68 are directed to a method for manufacturing medical tubing. Thus, Groups II-IV do not enjoy a separate status in the art. Accordingly, the Examiner has not established a *prima facie* case for a restriction requirement, and, therefore, Applicants respectfully request a withdrawal of this requirement.

Applicants further contend that the Examiner would have to conduct essentially the same searches for each of the Groups of claims, and, therefore, it would not be unduly burdensome for the Examiner to examine all of these claims as a single group. For this additional reason, Applicants request a withdrawal of this requirement.

Notwithstanding these grounds of traversal, Applicants elect to first pursue Group I claims 1-16.

Respectfully submitted,  
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